

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, February 21, 2003 – 8:00 a.m.
State Fairgrounds, Wildlife Building
17th Avenue & McDowell Road
Phoenix, Arizona

PRESENT: (Commission)

(Director's Staff)

Chairman Joe Carter
Commissioner Sue Chilton
Commissioner W. Hays Gilstrap
Commissioner Joe Melton
Commissioner Michael M. Golightly

Director Duane L. Shroufe
Deputy Director Steve K. Ferrell
Asst. A.G. Jay Adkins
Asst. A.G. Jim Odenkirk

Chairman Carter called the meeting to order at 8:03 a.m.

1. Executive Session

- a. Legal Counsel. *State of Arizona v. Norton*, CIV 02-0402-PHX-FJM; *Montoya v. Manning*, 301. F.3d 985 (9th Cir. 2002); *In Re General Stream Adjudication for the Little Colorado River and Gila River*; *Mark Boge v. Arizona Game and Fish Commission & Shroufe*, CIV 2000-020754; *Mary R. LLC, et al. v. Arizona Game and Fish Commission*, CIV 2001-015313, and *Ameduri and Yee et al. v. U.S. Forest Service et al.*, U.S. District Court No. CIV 02-2495 PCT FJM and *Bar D Cattle Co. v. Shroufe*, CIV2002-0872.
- b. Purchase of Real Property and associated water rights

Motion: Gilstrap moved and Melton seconded THAT THE COMMISSION GO INTO EXECUTIVE SESSION.

Vote: Unanimous

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Meeting recessed at 8:03 a.m.

Meeting reconvened at 9:10 a.m.

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Chairman Carter called the meeting to order at 9:10 a.m. The commissioners introduced themselves and Chairman Carter introduced Director's staff. The meeting followed an agenda dated January 31, 2003.

Awards

The Department received an award for outstanding increase in "Leadership Givers" and "Supergivers" from the State Employees Charitable Campaign. Tice Supplee, Game Branch Chief, received an award for outstanding Department Employee from the Yuma Valley Rod and Gun Club. Norris Dodd, Wildlife Specialist in Region I (Pinetop),

received the “Wildlife Habitat Relationships Award” from the Arizona Chapter of The Wildlife Society.

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1. Executive Session

b. Purchase of Real Property and associated water rights

Director Shroufe noted the Commission needed to take action in public session on two items discussed in executive session.

John Kennedy, Habitat Branch Chief, stated one item dealt with a proposed recovery land acquisition grant; the other dealt with the Commission’s Heritage Acquisition Fund.

With respect to the recovery land acquisition grant, the Department has been working with Arizona State Parks, U.S. Fish and Wildlife Service and other cooperators on a potential Endangered Species Act, Section 6 acquisition grant, that involves acquisition of approximately 1400 acres of high value wildlife habitat within the Salero Ranch in Santa Cruz County.

Motion: Melton moved and Gilstrap seconded THAT THE COMMISSION DIRECT THE DEPARTMENT TO MOVE FORWARD WITH THE DEVELOPMENT AND SUBMISSION OF A RECOVERY LAND ACQUISITION GRANT FOR POTENTIAL ACQUISITION OF THE COAL MINE SPRING PROPERTY.

Vote: Unanimous

With respect to the Heritage Acquisition Fund, the Commission has established acquisition priorities focused on five properties that have been discussed in previous executive sessions. Commissioner Gilstrap noted these were acquisitions the Commission has been dealing individually with over a long period of time. They were put into a group for the Commission to respond to as a recommendation.

Motion: Gilstrap moved and Melton seconded THAT THE COMMISSION OBLIGATE THE HERITAGE LAND ACQUISITION ACCOUNT OF APPROXIMATELY \$10.5 MILLION FOR THESE HIGH PRIORITY ACQUISITIONS.

Vote: Unanimous

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2. Litigation Report

State of Arizona v. Norton, CIV 02-0402-PHX-FJM; *Montoya v. Manning*, 301. F.3d 985 (9th Cir. 2002); *In Re General Stream Adjudication for the Little Colorado River and Gila River*; *Mark Boge v. Arizona Game and Fish Commission & Shroufe*, CIV 2000-020754; *Mary R. LLC, et al. v. Arizona Game and Fish Commission*, CIV 2001-015313, and *Ameduri and Yee et al. v. U.S. Forest Service et al.*, U.S. District Court No. CIV 02-2495 PCT FJM and *Bar D Cattle Co. v. Shroufe*, CIV2002-0872.

A copy of the report, which was provided to the Commission prior to today's meeting, is included as part of these minutes.

Regarding the Bellemont lawsuit, Mr. Adkins stated the judge would probably rule today as to whether or not the Commission will be able to intervene. Mr. Adkins should know of the decision by Monday.

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4. Request to Approve the Notice of Supplemental Proposed Rulemaking and the Preliminary Economic, Small Business, and Consumer Impact Statements for the Amendment of R12-4-401, R12-4-406, R12-407, R12-4-408, R12-4-409, R12-4-413, R12-4-417, R12-4-420, and R12-4-423; for the Repeal of R12-4-412, and for the Promulgation of New Rule R12-4-430 to Address Issues Associated with Chronic Wasting Disease

Presenter: Mark Naugle, Manager, Rules & Risk Management

For additional background information, see Commission meeting minutes for May 18, 2002, pages 24-26.

Based on public input, the Department made substantive changes to the Notice of Proposed Rulemaking.

1. Exception to the provisions of R12-4-413 (A) was added for Sections 414, 415, 416 and 419 to clarify the provisions of the rule only to apply to private game farm licensees. The Department has determined that the phrase "or any cervids" is not necessary in R12-4-423 (L). The provision would have required a licensed wildlife rehabilitator to send the carcasses of any cervid that dies under the licensee's authority to the Department for disposal. It has been determined this is an unnecessary step to prevent the spread or introduction of chronic wasting disease (CWD) into Arizona, and the provision has been deleted from the rule.
2. For clarification purposes, the definition of native cervid in R12-4-430 (A)(2) has been revised to add the phrase, "or the genus *Rangifer*, common name reindeer and caribou". Reindeer and caribou are native to North America and this change was necessary to make the definition accurate.
3. Paragraph 430 (D) has been modified for consistency purposes to add provisions for new subsection (L).
4. New subsection R12-4-430 (L) has been added to allow a Zoo License holder to transport a live cervid, except a native cervid, within Arizona for the purposes of procurement or propagation. This provision was added to the rule after it was determined by the Department that the provision would not result in an increased risk of the spread or introduction of CWD into Arizona.

5. R12-4-430 (M) and (N) have been modified to replace the word, "imports" with the word "possesses" to more accurately reflect the intent of R12-4-412, which this rulemaking action is repealing. It was the Department's intent to add the provisions of R12-4-412 to new Section R12-4-430 to make the agency's rules more clear, concise and understandable. There was no intent to change the provisions of R12-4-412 with this action and this change is being made accordingly.
6. New subsection R12-4-430 (O) has been added to update reference material for brucellosis control and eradication in cervids. This change will ensure the most current provisions from the U.S. Department of Agriculture for the control and eradication of brucellosis are contained within the Department's rules.

Written public comments will be accepted until April 20, 2003, and the Notice of Final Rulemaking will be presented to the Commission for final action at the June 2003 Commission meeting. The final rulemaking package will then be submitted to GRRC for its August 2003 meeting, with an anticipated effective date in October 2003.

Public comment:

Lester Smith, Jr., owner of the EZ Ranch on the Agua Fria River, spoke in opposition to the rewrite of R12-4-413, private game farm license, as it had nothing to do with CWD. The Department's enabling legislation prohibits regulations that are arbitrary, obsequious, or discriminatory. The EZ Ranch is the only party that R12-4-413 applies to; this was discriminatory. The Department's concerns with domestic red deer deal with the escape, interbreeding, and transmission of disease. Dead animals do not do any of those three things. The deer business cannot survive without the harvest of older animals. It was strange and inconsistent that bison could be harvested, but the harvest of red deer was prevented. He asked that the changes be dropped from R12-4-413.

Mr. Smith also was concerned about getting his permit not being renewed because of late filing. He suggested permits should be sent out for renewal to allow the permittee to have enough time to furnish all required information.

Randy George, owner of the Grand Canyon Deer Farm, expressed concern with R12-4-430 (2). Because of slow business in the winter, the deer were exhibited at schools, shopping malls, etc. Chronic wasting disease should not be an issue because there were no other deer around.

Mr. Naugle noted Mr. Smith was correct regarding R12-4-413. The proposed changes in the rule have nothing to do with CWD. He pointed out that any time the Commission approves a Notice of Docket Opening, the Commission has authority to revise and/or amend the rule language to make it more clear, concise and understandable. Members of shooting preserves and holders of field trial licenses and wildlife hobby licenses note they buy all of their pen-reared game birds from game farms to shoot, hunt and train their dogs at their facilities. The language in 413 where the conflict exists currently states game farm wildlife may be killed but shall not be hunted. To accommodate the public using pen-reared game birds, an exemption was incorporated in 413 (A) to alleviate the conflict.

and to make it more clear, concise and understandable. These changes were reviewed by GRRC, which saw them as a benefit.

Commissioner Golightly asked where the transmission of CWD was greatest. Jim deVos, Research Branch Chief, stated transmission occurs in game farms and in free roaming elk. The trend in the United States and Canada is to be restrictive. Any rate of infection over 5% will decrease populations; there were several states that were over 5%. There was concern with the possible connection between humans and CWD. Arizona has been collecting biological samples for CWD testing since 1998. To date, there are no positive cases for CWD in Arizona. Arizona was surrounded by three contact states with confirmed CWD (Colorado, Utah and New Mexico).

Commissioner Chilton asked Mr. Smith the source of his red deer. He stated today's herd has been propagated from stock he brought in from Europe in 1988. He was not importing red deer from other states or countries. The 8-10 animals he had tested thus far have turned up negative for CWD.

Leonard Ordway provided clarification for R12-4-413 (A) where it is stated private game farm wildlife may be killed but shall not hunted. The intent of the rule was to not allow "canned" hunts on game farms. The redraft states that even if wildlife were taken off the game farm, they could not be hunted. If animals were obtained from a game farm, they are to be used for another allowable purpose, e.g., field trial. The wildlife on game farms do come under the definition of restricted live wildlife. The rule clarified confusion in the past regarding what constituted a restriction outside the game farm allowance.

Mr. Naugle explained that R12-4-430 (L) only allows a zoo license holder to transport a non-native cervid for the purposes of procurement or breeding.

Motion: Gilstrap moved and Golightly seconded THAT THE COMMISSION VOTE TO APPROVE THE NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING AND THE ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENTS FOR THE AMENDMENT OF R12-4-401, R12-4-406, R12-4-407, R12-4-408, R12-4-409, R12-4-413, R12-4-417, R12-4-420, AND R12-4-423; FOR THE REPEAL OF R12-4-412; AND FOR THE PROMULGATION OF NEW RULE R12-4-430 TO ADDRESS ISSUES ASSOCIATED WITH CHRONIC WASTING DISEASE.

Vote: Unanimous

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3. Commission Briefing on Black-tailed Prairie Dog Management Activities

Presenter: Bill Van Pelt, Nongame Mammals Program Manager

For additional background information, see Commission meeting minutes for October 19, 2001, pages 7-16.

Information on the black-tailed prairie dog was given, including historical range. The black-tailed prairie dog occurred in southeastern Arizona but was extirpated in the state in 1959. Gunnison's prairie dog currently occurs in Arizona.

Recent management history was given of the black-tailed prairie dog. In 1998, the National Wildlife Federation petitioned the U.S. Fish and Wildlife Service (FWS) to emergency list the black-tailed prairie dog. The reasons included destruction of habitat, unregulated mechanisms to control poisoning and shooting, and disease. Concurrently, 11 states within the historical range of the prairie dog formed the Black-tailed Prairie Dog Conservation Team and began drafting a Conservation Agreement to implement conservation actions for the black-tailed prairie dog to preclude the need to list the species. In 1999, a MOU was signed by nine of those states that committed the states to implement a Conservation Agreement for the species.

In the Conservation Agreements, there were nine objectives or strategies that were to be implemented by the states.

1. Implement the conservation strategy portion of the agreement
2. Establish a conservation team and state working groups
3. Determine and monitor the species' distribution and status
4. Cooperate with Mexico and Canada
5. Identify, maintain and promote prairie dog habitat
6. Educate the public
7. Identify, prioritize and implement research needs
8. Establish regulatory protection
9. Evaluate the progress of these accomplishments

The primary focus of the strategy is the development of a state specific management plan for this species. Each state is developing a management plan.

In March 2000, Arizona started the process of developing a state management plan and held a series of open houses and work group meetings. In October 2001 the Department presented the plan to the Commission and received direction to proceed with the development of the plan but bring it through the 12-step process.

The Department's 12-step process for reestablishing a nongame species was reviewed.

On November 20, 2002, the Eastern Arizona Counties Organization (ECO) approved a resolution requesting the Arizona Game and Fish Commission reconsider its October 2001 direction to the Department on black-tailed prairie dog reintroduction.

Public comment:

Sandy Bahr, representing the Grand Canyon Chapter of the Sierra Club, stressed the importance of the prairie dog to the ecosystem. The black-tailed prairie dog should be brought back and urged the Commission to continue with the 12-step process. The Commission did have a public trust responsibility for this species.

Dixie Zumwalt, Greenlee County Supervisor, objected to the reintroduction of the black-tailed prairie dog as they were harmful to agricultural lands. Greenlee County was prepared to do a resolution to oppose the reintroduction.

Jim Shea, representing self, supported the 12-step process and hoped the Commission would continue to do so. This was a Commission for wildlife management, not cattle

management. The Commission and Department needed to deal with wildlife management no matter what the wildlife. Chairman Carter stated there were many dimensions that influence wildlife management; one of them being social v. science. Dynamics of populations in the West have changed and directly influence the management of natural resources, including wildlife.

Martin Moore, representing the Eastern Arizona Counties Organization and Les Thompson, Cochise County Supervisor, opposed this particular reintroduction. The organization requested:

1. Commission vote to abandon the 12-step process for this particular species
2. Management plan not be developed
3. Commission reconsider its position and direct the Department to withdraw from the multi-state conservation agreement

Alyssa LaFortune, representing self, urged the Commission to continue with the 12-step process.

Bobbie Holaday, representing self, recommended that the Department proceed with development of the management plan as stipulated by the conservation agreement commitment under the multi-state effort and go forth with the program.

Terry Cooper, Manager of the Graham County Board of Supervisors, opposed the reintroduction of the black-tailed prairie dog.

Jeff Williamson, Executive Director of the Arizona Zoological Society of The Phoenix Zoo, noted that the Donaldsons, permittees on the Las Cienegas Natural Conservation Area, were not able to be present. He noted the Donaldsons continued to be active affirmers of continuing the 12-step process. Mr. Williamson also supported the process and made a commitment to provide manpower and financial resources for holding, monitoring and for reintroduction.

Bob Luce, Interstate Coordinator for the Black-tailed Prairie Dog Conservation Team, assisted states to address the petition for listed species. The states have stayed together and have pursued an 11 state strategy through the process. A conservation assessment and strategy have been completed, and as of yesterday, completed the multi-state conservation plan. The FWS was interested in working with the states on black-tailed prairie dog management. If the states continue to work together, there was high probability that there would be enough management in place by 2004 to petition the FWS to remove the species from the candidate list. The goal was to allow state management of the species. He urged the Commission to continue with the reintroduction evaluation.

Dale Volz, representing the Arizona Ecumenical Council, stated we all share resources. He urged the Commission to accept the recommendation of the Department and to establish recovery in the management plan.

Susan Zeloznicki, representing self, stated the 12-step process should continue.

Karen Michael, representing self, stated the 12-step process should continue and to evaluate scientific data with regard to this species. Many animals were dependent upon prairie dogs and their habitats.

Sandy Anderson, representing self, did not speak but wrote that the Department should continue with the 12-step process. To cut the process short would not serve conservation and could deny the state input into the 11 state prairie dog conservation process. Much progress has been made since the onset of the 12-step process.

Mr. Van Pelt read a letter dated February 19, 2003, into the record from Stephanie Nichols-Young on behalf of the Animal Defense League of Arizona (ADLA). The ADLA supported the Department proceeding with the 12-step process.

Chairman Carter stated the mission of the Commission has been to work with the FWS in an effort to: 1) identify what the conditions of the native range were and 2) ascertain what population levels there may be across the range and within specific states. This should result in an end product that 1) ensures the survivability of the species and 2) results in the removal from the Endangered Species candidate listing status. He asked what we knew today that we didn't know in 1998 about the species. Mr. Van Pelt described the petition process. In 1998 the FWS determined the black-tailed prairie dog population to be approximately 600,000 acres. Through the conservation agreement, the states have agreed to conduct an inventory to determine the actual population status of the black-tailed prairie dog. The states have conducted an inventory; the population estimate to date stands at 1,558,337 acres. Individual prairie dogs are not counted; occupied acres are identified.

Motion: Chilton moved and Gilstrap seconded THAT THE COMMISSION DIRECT THE DEPARTMENT TO REVIEW THE LATEST SCIENCE ON THE POPULATION NUMBERS AND ACREAGE OF PRESENT AND HISTORIC RANGE OF THE BLACK-TAILED PRAIRIE DOG AND BRING FORWARD TO THE COMMISSION PRIOR TO MAKING ANY RECOMMENDATION IN THE 12-STEP PROCESS AN ANALYSIS OF THE POTENTIAL FINANCIAL COSTS, INCLUDING LIABILITIES, FOR THE EFFECTS OF ANY INTRODUCTION OF BLACK-TAILED PRAIRIE DOGS ON PUBLIC AND PRIVATE LAND USES, RURAL COMMUNITIES AND CULTURES AND THE POTENTIAL EFFECTS OF PRAIRIE DOG CARRIED DISEASES ON OTHER WILDLIFE, HUMANS, AND DOMESTIC ANIMALS.

Commissioner Gilstrap stated that to a degree this almost becomes an integral part of the 12-step process because it is an evaluation of the process. Commissioner Chilton stated she saw this as part of the information gathering process so the Commission could make an informed decision that takes into account all of the factors mentioned in the motion. Mr. Van Pelt noted the Commission was currently on step 5 of the 12-step process.

Commissioner Golightly asked what would happen if Arizona dropped out of the conservation agreement process. Mr. Van Pelt stated the FWS has to be able to evaluate the candidate status of the species. If there was a significant portion of the range that was not demonstrating management actions, the FWS might have to come to a decision that conservation or management actions were not in place to maintain the species.

Commissioner Golightly asked how many private requests were received for reintroduction. Mr. Van Pelt stated there was testimony from Josiah Austin, a private landowner in southeastern Arizona, stating he would be willing to allow prairie dog reintroduction on his property. Mac Donaldson was also interested in being a cooperator. Mr. Van Pelt stated the Department brought a draft management plan to the Commission in October 2001, at which time the Commission directed the Department to table the plan and bring it back through the 12-step process. The plan would show up in step 8 of the process.

Commissioner Melton asked about the estimated number of prairie dogs per acre. Mr. Van Pelt noted it was difficult to estimate the number of individual prairie dogs per acre. Because of habitat conditions and quality, the density could be different. The biology of the species should be looked at and how the species reacts to impacts upon that. When plague comes into a prairie dog system (town), it is usually 100% lethal. Prairie dog towns are looked at as the management unit, not the individual animals. The threat is based on the configuration and layout of the towns. The management strategy developed by the conservation team to obviate the threat of plague was to have greatly distributed prairie dogs in both large and isolated complexes so that if plague does strike, other areas would have towns to help repopulate areas that were lost to plague outbreaks.

Chairman Carter asked if the concern was about plague and its ability to wipe out entire colonies, why was the FWS an advocate of both large and isolated populations and not many smaller units. Mr. Van Pelt stated the applied strategy took into account both existing large and small complexes. Both maintained the system as a whole and the species. Plague was only one of the threats identified by the FWS in the listing package.

Chairman Carter pointed out there had been some debate about the eastern boundary of the native range. He asked if the range was expanded. Mr. Van Pelt stated it was believed in a scientific paper that tallgrass prairie habitat was not a pre-settlement component of the black-tailed prairie dog and should not be considered in management. This would reduce the eastern historical range. Commissioner Chilton added the point made in the scientific paper referred to by Mr. Van Pelt was that the "warranted but precluded" status assigned to the black-tailed prairie dog was based upon an estimate loss of historic range. The presumed range contraction resulted in a high priority candidate status when, in fact, the historic range was less. Therefore, this would place the animal at a lower level of priority for listing because the historic range was not as large. Shrinkage of historic range was a major factor considered in the listing. Mr. Van Pelt pointed out this was only one of the five factors that went into the FWS's decision for the species.

Through the current status survey conducted by the FWS, the Department sent a letter to the FWS that strongly encouraged lowering the priority for the black-tailed prairie dog. The candidate list's priorities are 1-12; the black-tailed prairie dog is 8. The Department encouraged the priority to 11.

Commissioner Golightly stated the motion does not refocus what is currently being done. It continues the 12-step process and the provisions recommended in the motion would be part of something the Department would normally be conducting. The motion allows everything to continue, with the focus on diseases, as well as cultural and social issues.

Vote: Unanimous

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Meeting recessed at 10:50 a.m.

Meeting reconvened 11:00 a.m.

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5. An Update on Current Issues, Planning Efforts, and Proposed Projects on State and Federal Lands in Arizona and Other Matters Related Thereto

Presenter: John Kennedy, Habitat Branch Chief

A copy of the printed update, which was provided to the Commission prior to the meeting, is included as part of these minutes.

There were no further questions from the Commission.

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6. Request for the Commission to Approve Two Agreements for Permit with Salt River Project for the Purposes of Utility Services and a Water Retention Area at the Mesa Regional Office in Maricopa County, Arizona

Presenter: John Kennedy, Habitat Branch Chief

Salt River Project (SRP) has requested three easements at the Mesa regional office. The easements involve an underground electrical easement for utility services to the regional office, an aerial electrical easement for existing cross-arm electrical utilities and an easement to crease a 30-foot wide water retention area along the northern boundary of the property for drainage purposes. There is one agreement for the two electrical utility easements and one agreement for the water retention area.

The Commission acquired this land from the Bureau of Land Management in 1998 for the regional office through a Recreation and Public Purposes (R&PP) patent. This patent does not authorize the Commission to issue subleases or easements on this property, although it does allow the Commission to “permit” other necessary uses on-site that are compatible with uses of the land and consistent with the R&PP Act.

If approved, the two agreements would permit SRP to access existing power and related equipment for the purposes of construction, installation, operation and maintenance of electrical poles, cross-arms, lines and appurtenant facilities to provide electric service to the regional office and off-site and also permit SRP to create a 30-foot wide water retention area for drainage purposes.

Motion: Chilton moved and Golightly seconded THAT THE COMMISSION VOTE TO APPROVE TWO AGREEMENTS FOR PERMIT WITH SALT RIVER PROJECT FOR THE PURPOSES OF UTILITY SERVICES AND A WATER RETENTION AREA AT THE MESA REGIONAL OFFICE IN MARICOPA COUNTY, ARIZONA, SUBJECT TO BLM CONCURRENCE, AND AUTHORIZE THE DIRECTOR TO EXECUTE

ALL AGREEMENTS AS ATTACHED OR AS APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

Vote: Unanimous

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7. Request for the Commission to Approve a Memorandum of Understanding for Cooperation and Coordination in Invasive Species Management and the Formation of the Sonoran Desert Invasive Species Council and One or More Associated Cooperative Weed Management Areas in Southwest Arizona

Presenter: John Kennedy, Habitat Branch Chief

The purpose of the MOU is to guide state, federal and resource management agencies and other cooperators in the development of common management objectives to control or prevent the spread of invasive species and restore natural communities within southwest Arizona. The MOU is meant to establish the Sonoran Desert Invasive Species Council and one or more associated Cooperative Weed Management Areas (CWMAs). The Sonoran Desert Invasive Species Council will provide programmatic assistance to the MWMAs to facilitate the implementation of on-the-ground management activities.

Motion: Gilstrap moved and Melton seconded THAT THE COMMISSION VOTE TO APPROVE A MEMORANDUM OF UNDERSTANDING FOR COOPERATION AND COORDINATION IN INVASIVE SPECIES MANAGEMENT AND THE FORMATION OF THE SONORAN DESERT INVASIVE SPECIES COUNCIL AND ONE OR MORE ASSOCIATED COOPERATIVE WEED MANAGEMENT AREAS IN SOUTHWEST ARIZONA AND AUTHORIZE THE DIRECTOR TO ENTER INTO THE MOU AS ATTACHED OR AS APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

Vote: Unanimous

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8. Request for the Commission to Approve the Agreement between the Commission and the City of Phoenix for a Utility Right-of-Way at the Ben Avery Shooting Facility, Maricopa County, Arizona

Presenter: John Kennedy, Habitat Branch Chief

The City of Phoenix initiated the Lake Pleasant Waterline Route Study in the fall of 2000 to locate an appropriate and feasible route for the addition of waterlines from the proposed Lake Pleasant Water Treatment Plant to the City's existing water system. The City selected a route along the southern border of the Ben Avery Shooting Facility (BASF).

The Department received an official request for a utility right-of-way easement across the southern border of the BASF in February 2002. The Department has determined the utility corridor, which would include water, sewer and fiber optic utilities, would be of value to the public and for any future development on the BASF property.

Commissioner Gilstrap asked about the size and geographical impacts and the effects this might have on the future planning at Ben Avery, e.g., drainage, egress/ingress. Mr. Kennedy stated that related to size and configuration, the easement runs parallel to the Carefree Highway. A proposed 150-foot wide utility corridor would run the length of the southern boundary at the facility; everything would be underground and would involve 30-35 acres of land. The city has stated it would take all drainage issues into account to ensure the longevity of the utility corridor.

Commissioner Gilstrap stated he preferred to know more specifics (positive and negative) before the Commission gives approval to sell 35 acres.

Chairman Carter stated this item would be held for approval at a future meeting. Mr. Kennedy stated the Department would be comfortable with the request to delay.

Commissioner Gilstrap stated it would be advantageous for him to look at the area. The Department could come back to the Commission with maps and sketches.

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9. Statewide Shooting Range Project Update

Presenter: Kerry Baldwin, Education Branch Chief

A written summary was provided to the Commission on major issues in the program prior to today's meeting.

Director Shroufe noted the Forest Service signed the Decision Notice for the Bellemont land exchange yesterday. He signed a copy of that agreement in front of the Commission. The action today culminated the issues between the Forest Service and the Department. Pending conclusion of the court case, the exchange of deeds would be completed. The Department was ready to have requests for bids go out on Monday for the construction of the range. An additional \$500,000 was requested from this year's capital budget; the capital budget was currently in question. He hoped the construction phase could begin this summer. The deed exchange and construction will not occur until pending court actions are settled.

Mr. Baldwin noted the Commission voiced concern with H.B. 2314 at its last meeting. Commissioners Carter and Gilstrap met with Councilman Siebert and members of the city staff. It has been learned the legislation was dead and would not be going anywhere because it did not have support of the city due to unintended consequences. Legislation may be crafted to protect not only Ben Avery, but other shooting ranges as well that may be in similar contexts in the future. The Department anticipates getting back with city staff within the next few weeks to continue discussions. Draft legislation would be brought to the Commission.

Mr. Baldwin referred to information in the addendum to the briefing regarding the Tucson Rod and Gun Club. Chairman Carter stated he received phone calls during the past few weeks regarding activity that occurred at the Commission level a year ago and has been silent since then. He suggested the Commission direct the Department to meet

with Sandy Froman and other National Rifle Association (NRA) representatives between now and the March Commission meeting to determine what their plan is and to come back with a presentation and options or recommendations to the Commission in March in Tucson. Commissioner Melton noted he would attend the meeting with Ms. Froman and NRA representatives. Mr. Baldwin intended to include the presentation as part of the shooting range briefing.

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10. Call to the Public

There were no comments.

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12. Request for the Commission Approval of the Program Narrative for U.S. Coast Guard Boating Safety Funds (Federal FY 2003/State FY 2004)

Presenter: Leonard Ordway, Law Enforcement Branch Chief

The program narrative detailed expenditures of U.S. Coast Guard boating safety funds for the Department's watercraft activities and obligations for State FY 2004. The narrative addresses the grant period of October 1, 2002 to September 30, 2003, and reflects the legislatively mandated watercraft responsibilities of the Department. Total estimated cost is \$840,445.

Motion: Gilstrap moved and Chilton seconded THAT THE COMMISSION VOTE TO APPROVE THE PORTION OF THE DEPARTMENT'S WATERCRAFT SAFETY PROGRAM FUNDED BY U.S. COAST GUARD MONIES PURSUANT TO THE FEDERAL BOATING SAFETY ACT OF 1971.

Vote: Chilton, Gilstrap and Melton – Aye
Golightly – Absent for vote
Chair voted Aye
Motion carried 4 to 1

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16. Commissioner Committee Appointments

Presenter: Steve K. Ferrell, Deputy Director

The Commission considered Commission member appointments to the following standing committees: Heritage Public Advisory; Habitat Partnership; Landowner-Lessee/Sportsman's Relations; Shooting Range Economic Development and Wildlife Assets.

Chairman Carter referenced the Landowner-Lessee/Sportsman's Relation Committee and gave direction to the Department to consider elevating the Commission policy to allow the appointed commissioner to be a voting member of that committee, as opposed to be a liaison.

Chairman Carter made the following appointment recommendations:

Arizona Game and Fish Commission Standing Committee Participation		
Committee	Commissioner Representation	Commissioner's Role on Committee
Heritage Public Advisory Committee (HPAC)	Carter	Chairman
Habitat Partnership Committee (HPC)	Gilstrap	Chairman
Landowner-Lessee/Sportsman's Relations Committee	Chilton	Liaison/Member
Shooting Range Economic Development Committee	Gilstrap	Chairman
	Melton	Member
Wildlife Assets Committee	Golightly	Member

Motion: Carter moved and Chilton seconded THE RECOMMENDATIONS.

Vote: Unanimous

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17. Director's and Chairman's Reports

Chairman Carter attended the Western Association of Fish and Wildlife Agencies conference in Coronado, California, in early January. He also spent many hours at the Legislature working on the Department's budget.

Director Shroufe noted the written Division reports. He attended a meeting with the State Land Department regarding the Ben Avery Range and other issues. He attended a Growing Smarter Oversight Council meeting. He attended a meeting at Las Cienegas National Recreation Area with the Bureau of Land Management (BLM) and the Secretary of the Interior. He attended a Barry M. Goldwater Executive Committee (BEC) meeting and an Interagency Executive Committee (IEC).

Director Shroufe attended a meeting with BLM. As part of the North American Conference, he was invited to represent the state wildlife agencies in a two-hour dialog with BLM national and state directors to discuss state BLM relationships as they occur on a national level.

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18. Commissioners' Reports

Commissioner Golightly was involved in shooting range issues in northern Arizona.

Commissioner Chilton was involved with the Habitat Conservation Plan for the Altar Valley Conservation Alliance and with the Multi-species Conservation Plan with Pima County and Altar Valley Conservation Alliance. She attended a two-day meeting of the Arizona Cattlemen's' Winter Legislative Conference.

Commissioner Melton attended an IMAG meeting in Clifton. He attended an Arizona Fur Trappers auction. A bobcat pelt sold for \$360. There was interest in fur and prices were coming back. Concern was expressed to him from a trapper about using the right tools to control coyotes. The inability to control coyotes has also affected the produce industry and agricultural areas that are on public lands.

Commissioner Gilstrap attended a Jaguar Conservation Team meeting in Willcox. He attended a Ben Avery Shooting Facility Planning Committee meeting. He attended a meeting with the State Land Department and the Shot Show in Orlando, Florida.

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Meeting recessed at 11:50 a.m.

Meeting reconvened at 12:30 a.m.

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19. Approval of Minutes

Commissioner Golightly stated the minutes for January 15, 2003, show he was present when he was actually absent and in Flagstaff.

Motion: Gilstrap moved and Golightly seconded THAT THE COMMISSION APPROVE THE MINUTES FOR JANUARY 15 AND 17, 2003, AS AMENDED.

Vote: Unanimous

The minutes for December 6-7, 2002 and December 17, 2002, were signed.

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20. Future Agenda Items

Chairman Carter asked that a letter be prepared under his signature to the Commission's counterparts in New Mexico to invite them to the May Commission in Safford for an update on the transition with respect to management of the Mexican wolf program and the roles of the Arizona and New Mexico wildlife agencies.

Commissioner Chilton wanted an update on the bark beetle infestation and the treatment of trees in areas where there is dead standing timber. She agreed discussion should occur at the March meeting, before the start of the fire season.

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11. State and Federal Legislation

Presenter: Anthony Guiles, Legislative Liaison

An update was given on bills on which the Commission has already taken a position.

A hearing was held last week in the Senate Natural Resources Committee on S 1282 (wildlife diseases; agency orders). It was passed unanimously. The Arizona Cattle Growers Association expressed concern; they want the State Veterinarian and the Arizona Department of Agriculture to be apprised of anything the Department does. Amendments are being worked on at this time.

Concern had been expressed regarding the wording of the penalty in S 1283 (watercraft; boating while intoxicated). This was addressed with an amendment to make it a civil sanction rather than a criminal charge and the bill passed the Committee of the Whole (COW). The bill should go before full Senate for a vote next week.

The Commission has taken a position to oppose two bills with regard to federal appropriations (HB 2248 and S 1060). Both of the bills have passed out of the COW. The House has passed out of third read. There was no confirmation as to whether or not the Governor will veto. Commissioner Gilstrap asked about the possibility of writing an exemption for the Department. Mr. Guiles stated the Department was trying to work on an exemption. Chairman Carter noted there were many pieces of federal dollars that are unknown when the budget is submitted.

The sponsor will not run HB 2298 (watercraft registration; transfer; study) and will be used as a striker. This bill is dead.

The sponsor of HB 2314 (game and fish; land disposition) will work with the Department on something more specific.

New bills on which the Commission has not taken a position were reviewed.

Two reports are included in legislation (HB 2049, state agency reports; repeal). These are OHV and Publications Revolving Fund and these would not be required to be submitted statutorily. The reports would be kept available if there were any questions. Commission consensus was to support.

HB 2433 (state services) would require all state agencies to file a report or do a study for functions currently done by a state agency that may be better served by an outside agency. Commission consensus was to oppose.

HB 2434 (watercraft; abandoned fee) would require the Department to collect a fee on abandoned boats before registering. Mr. Guiles stated the capability did not exist in the Department's database to track and the money collected would go into SLIF, which the Department does not manage. The Department would not receive any administrative costs. Commission consensus was to oppose in its present form.

HB 2479 (forest status report) would require the Game and Fish director, in conjunction with the state forester, to make presentations to the Legislature on a biennial basis. Commission consensus was to support.

HCR 2018 (ballot measure resubmittal) requires that any initiative approved in the 1990's and hereafter would have to go before the voters every eight years for reapproval or until a new initiative comes out replacing it. Director Shroufe was concerned about the conflict with the statute that the Department was to get out information and education about an item and then knowing it would come up in eight years, would not be allowed to speak to that item one way or the other unless asked. Mr. Guiles noted every initiative passed in the 1990s would be on the ballot in 2004. Mr. Guiles noted he would come to the Commission next month with further clarification and analysis on this legislation.

Commission consensus at this time was to monitor closely. A briefing document would be sent to the Commission as soon as there was clarification.

HCR 2034 (public lobbyists; public money) would prevent any state agency from having any lobbying capabilities at the Legislature. Commission consensus was to monitor.

S 1063 (wildfires; fire bans) increases the penalty for anyone who willingly or knowingly sets fires. Commission consensus was to support.

S 1292 (buffalo ranches; sale) would direct the Commission to sell the House Rock Wildlife Area and Raymond Ranch Wildlife Area. Commission consensus was to oppose.

SM 1001 (Sonoran Desert Peace Park) was a request by the Legislature to Congress and the Department of Interior to take steps to establish the Sonoran Desert Peace Park. A memorial is basically a "postcard to Congress".

Commissioners Chilton and Golightly asked if John Kennedy could provide any additional information on this proposal. Mr. Kennedy stated this was not the first time the Commission has seen this proposal. Based on the Department's review, it appears that SM 1001 is the same proposal Congressman Morris Udall and Interior Secretary Stewart Udall advocated in the 1960s. Then, the Friends of Cabeza Prieta National Wildlife Refuge et al. advocated the same proposal, under the title, "Proposed Sonoran Desert National Park and Preserve" in the 1990s. Establishing the Sonoran Desert Peace Park, to be managed by the National Park Service, would impact the Department's ability to manage fish and wildlife populations in the area, including within the Cabeza Prieta National Wildlife Refuge and the Barry M. Goldwater Range.

Motion: Chilton moved and Melton seconded THAT THE COMMISSION STRONGLY OPPOSE THIS MEMORIAL AND DIRECT THE DEPARTMENT TO DRAFT A LETTER FOR SIGNATURE BY THE COMMISSION TO THE EFFECT THAT WE OPPOSE THE SONORAN DESERT PEACE PARK AND THE LETTER SHOULD BE SENT TO THE CONGRESSIONAL DELEGATION, DEPARTMENT OF DEFENSE, SECRETARY OF THE INTERIOR, GOVERNOR OF ARIZONA, SPEAKER OF THE HOUSE OF REPRESENTATIVES OF ARIZONA AND PRESIDENT OF THE ARIZONA SENATE.

Chairman Carter noted that since this was moving through the Legislature, the letter should probably be addressed to the President of the Senate and the Speaker of the House with copies to those named.

Vote: Unanimous

Because of the short time frame involved, Commissioner Gilstrap suggested that the Chairman review the draft letter on behalf of the other commissioners. The letter would be prepared for all of the commissioners' signatures.

Chairman Carter asked the Commission if they wanted Commissioner Gilstrap and him to continue to represent them at the Legislature.

Motion: Melton moved and Chilton seconded THAT THE SAME TWO REPRESENT THE COMMISSION.

Vote: Chilton, Melton and Golightly – Aye
Gilstrap – Abstained
Motion carried 3 to 1

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Director Shroufe stated since this next item came up late last night and needed immediate attention, the required 24-hour notice requirement was not sync with the Open Meeting Law. Approval was received from the Attorney General's office to proceed with taking action. The notice would be done later as a reaffirmation and ratification at the March Commission meeting.

Chairman Carter noted the Commission had before them a summary of the budget issues in terms of the Commission's and Department's request and the recommendations from the Executive Branch and the Legislative Branch.

The Commission's request in FY 04 was \$2.6 million. The Executive Branch recommended \$420,000; JLBC recommended \$127,000. In FY 05, the request was made for an additional \$2.5 million. The Executive Branch requested \$657,000; JLBC recommended \$169,000. In meetings on the budget the Commission and Department tried to build support for the budget. Throughout discussions, members of the Legislature have been prepared. The Commission preferred Heritage not be part of any discussions; focus should be given to the Game and Fish fund and the Watercraft fund. At the budget hearing last Friday, he advised the committee that the Commission was not in a position to support either the Executive Branch or the JLBC budget, but the Commission's trust was to support the needs of wildlife programs in the state.

Based on the presentation, there were enough concerns from the committee. A decision was made to give the Commission, Executive Branch and JLBC an opportunity to talk. It was decided to include some specific members, including the co-chairs of the subcommittees on Appropriations (Biggs and Harper), in the meeting.

The meeting occurred Thursday afternoon. The meeting was a discussion about what the Department could give up in terms of its request to help with the problems in the state's general fund. The Department considered giving assistance from the surplus watercraft balance (\$3 million) that the Legislature has not allowed the Department to spend in previous budgets.

The decision was made that if they would look favorably on the Commission's budget request, the Commission, subject to concurrence, could contribute \$3 million of surplus watercraft funds. The Executive and JLBC budget plans contain parts of this recommendation.

1. In order to balance the state's general fund budget, they intended to use \$10 million of Heritage monies in 03 and \$5 million in 04.
2. They intended to use \$1 million in each of those years of the Watercraft Fund.

Commissioners Gilstrap and Carter stated they would support the surplus Watercraft Funds for a two-year period in those amounts if they were willing to make some adjustments on the Game and Fish fund in terms of our request vs. what they wanted to give us. We would expect relief in some areas in the Watercraft Fund to sustain the education and outreach component, as well to remove formulas that impact our ability to use law enforcement monies.

Commissioner Gilstrap made comments. A couple of key things came out of the meeting.

1. There was feedback from members of the subcommittee. A general fund agency can be told there was no money as opposed to Game and Fish, which does have budgeted monies. The Department was unique and different.
2. The constituents support the Department and its budget has a great deal to do with the economies of the state. Sportsmen put a lot of money into rural Arizona.

Chairman Carter believed it was the intent of the legislators to sweep every fund in order to balance the state budget. It was made clear to them that the Department had obligations under Heritage, e.g., Zuni settlement and land acquisitions. He stated it has put the Commission in a difficult situation to try to meet trust responsibilities with respect to oversight of wildlife programs within the state and not be able to support either the executive branch or JLBC recommendations in terms of a budget.

Director Shroufe summarized there was full Commission authority to negotiate up to the Commission's approved budget. He asked if the Commission supported the Department in helping out the general fund with \$1.5 million a year for two years out of the Watercraft Fund. Both JLBC and OSPB have a \$1 million sweep in that fund anyway. The watercraft issue was outside of the realm the Commission asked the Department to do back in June.

Commissioner Melton felt the Department's constituency would be violently opposed to this action. We would be giving away their dollars and he was unsure as to how to involve them in the process. Sportsmen should speak up and state that the monies they paid in were not being appropriated for the Department to use. This issue needs to be made public. Director Shroufe stated the constituents already know. Chairman Carter emphasized that the objective was to try to restore the cuts that were made in the Game and Fish Fund as well as portions of the Watercraft Fund. Commissioner Golightly was concerned about setting precedence. Legislators should understand this is not their money to sweep; it belongs to a specific group of people independent of the appropriation process.

Motion: Gilstrap moved and Chilton seconded THAT THE COMMISSION TAKE THESE STEPS BECAUSE OF ITS GREATER COMMITMENT TO WILDLIFE MANAGEMENT RATHER THAN TO BE PASSIVE.

Vote: Chilton, Melton, and Gilstrap – Aye
Golightly – Nay
Chair voted Aye
Motion passed 4 to 1

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Meeting recessed at 1:52 p.m.

Meeting reconvened 2:00 p.m.

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Motion: Golightly moved and Melton seconded THAT THE PREVIOUS ITEM BE RECONSIDERED IN THAT COMMISSIONER GOLIGHTLY WOULD LIKE TO CHANGE HIS VOTE AND SUPPORT THE RECOMMENDATION THAT WAS MADE.

Vote: Unanimous

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13. Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments for the Illegal Taking and/or Possession of Wildlife

Presenter: Leonard Ordway, Law Enforcement Branch Chief

Record of these proceedings is maintained in a separate minutes book in the Director's Office.

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14. Commission Briefing on Wildlife Values in the West

Presenters: Ty Gray, Responsive Management Coordinator
Professor Mike Manfredo, Colorado State University

The Western Association of Fish and Wildlife Agencies (WAFWA) Human Dimensions Committee (HD) recently completed a pilot project phase survey entitled, "Wildlife Values in the West". Six member states of WAFWA participated in this pilot phase (Alaska, Arizona, Colorado, Idaho, North Dakota, and South Dakota). The Human Dimensions in Natural Resources Unit at Colorado State University was contacted by WAFWA to administer the survey.

Director Shroufe chairs the Human Dimensions Committee. A conservation grant was received to fund the second phase of the project, which will allow all 23 western states and Canadian provinces to participate at a low cost. The second phase will begin sometime in the spring.

Professor Manfredo served as the principal researcher for this project. He gave a Powerpoint presentation of the pilot phase results. This presentation was similar to the one given at the WAFWA mid-winter conference in Coronado, California in January.

Details of the study were given. The study will look at trends. The survey was comprised of two components: regional and state. The data gathered should provide two things:

1. The basis for regional strategies where states might cooperate in different ways
2. A foundation for more in-depth public involvement and point to the need for more investigation

It is the baseline against which trends can be charted. The ultimate goal is to help in management and policy decisions.

The focus was on values, which were believed to be at the root of all conflict occurring in wildlife management. Values were thought to be responsible for the 20th century decline in hunting and fishing and for the growth of non-governmental agencies and things like ballot initiatives. Values were believed to be at the foundation for the growth of new stakeholder groups, e.g., wildlife viewers. Values pointed to the future.

Concepts were described. Research on wildlife shows that people were moving away from wildlife use orientation (traditionalism) to protection (new generation utilitarianism/neutral protection).

Mr. Manfredo hoped data would stimulate discussion between people in the agency and stakeholders. Information would be provided to the states; states should follow up with brainstorming.

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Motion: Chilton moved and Gilstrap seconded THAT THE MEETING ADJOURN.

Vote: Unanimous

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Meeting adjourned 3:03 p.m.

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